

#7
DAC

Application No.: 10/510,210

Docket No.: 4978-0101PUS1
(PATENT)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kazuo NISHIKAWA, et al.

Application No.: 10/510,210

Confirmation No.: 4408

Filed: October 5, 2004

Art Unit: N/A

For: METHOD OF ESTIMATING ELIMINATION
OF MICROORGANISMS AND APPARATUS
FOR ESTIMATING ELIMINATION OF
MICROORGANISMS

Examiner: Not Yet Assigned

RECEIVED
- 2 JUN 2006
Legal Staff
International Division

RENEWED PETITION UNDER 37 CFR 1.47(A)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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MAY 24 2006

Sir:

OFFICE OF PETITIONS

This is a Renewed Petition under 37 CFR 1.47(a), in response to the Decision on Petition that was mailed on 20 March 2006.

That Decision indicated that two of four required items had not yet been satisfied, specifically:

Item (2), proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort; and

Item (3), a statement of the last known address of the inventor.

In response to Item (3), the last know address of inventor Masato Aoki is in care of the Kitasato Research Center of Environmental Science where he was employed when he did the work that resulted in his inclusion as an inventor in the present application. Mr. Aoki was not an employed of the Assignee of this application, Sharp Kabushiki Kaisha, and only his business is known to Sharp.

In response to Item (2), Applicants submit herewith a STATEMENT of Mr. Nobuo Shimizu, Manager of the Appliance Systems Group/Appliance Systems Products Development Laboratories of Sharp Kabushiki Kaisha. Mr. Shimizu's STATEMENT attests that Mr. Aoki – the inventor whose signature has not been obtained – is unavailable and still cannot be reached after diligent effort. Mr. Shimizu's STATEMENT is accompanied by four pieces of documentary evidence. One piece of evidence is a letter from Sharp to the Kitasato Research Center of Environmental Science where Mr. Aoki worked, asking for Mr. Aoki's signature on the formal application papers. One piece of evidence is an e-mail in which Sharp, after learning of Mr. Aoki's unavailability due to medical problems, requested a medical certificate attesting to Mr. Aoki's condition. One piece of evidence is a letter from Kitasato Research Center apologizing for not being able to provide a medical certificate relating to Mr. Aoki. One piece of evidence is an e-mail from Kitasato Research Center indicating that Mr. Aoki's ability to make decisions is not sufficient to enable him to sign patent documents.

Applicants respectfully submit that they have satisfied the requirements of 37 CFR 1.47(a). The USPTO is respectfully requested to accept the subject patent application and to examine the same on its merits.

If there are any questions, please contact Richard Gallagher (Reg. No. 28,781) at (703) 205-8008.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: May 19, 2006

Respectfully submitted,

By

 #28781
Raymond C. Stewart

Registration No.: 21,066

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Rd

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant

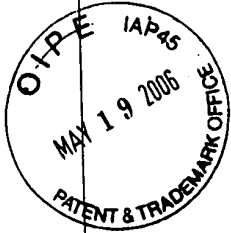
Attachment(s):

STATEMENT, with four (4) Appendices.

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STATEMENT

Sharp Kabushiki Kaisha
Appliance Systems Group
Appliance Systems Product Development Labs.
Manager: Nobuo Shimizu

I, as Manager of Appliance Systems Group/Appliance Systems Products Development Labs. of Sharp Kabushiki Kaisha, have been engaged in intellectual property right affairs.

First of all, I would like to state that the medical condition of Mr. Aoki remains unchanged, and that Kitasato Research Center of Environmental Science, where Mr. Aoki works for, has refused to disclose the last known home address of Mr. Aoki on the basis of the Private Information Protection Law.

Under the circumstances, further to my "STATEMENT" filed on September 26, 2005, wherein I explicitly stated the reason why the signature of the inventor Mr. Masato Aoki cannot be obtained on the Declaration and Power of Attorney as well as the Assignment for proceeding the US Patent Application Serial No. 10/510,210, I attach herewith the following documents, each document being translated into English and certified by Mr. Nobuo Shimizu):

Appendix (1): a letter copy dated September 6, 2004, requesting for signing on the Declaration and Power of Attorney and Assignment (sent from Sharp Kabushiki Kaisha to Kitasato Research Center of Environmental Science);

Appendix (2): e-mail copy dated September 9, 2004, requesting for submitting a medical certificate proving the medical condition of Mr. Aoki (sent from Sharp Kabushiki Kaisha to Kitasato Research Center of Environmental Science);

Appendix (3): a letter copy dated September 10, 2004, apologizing for not able to obtain a medical certificate (sent from Kitasato Research Center of Environmental Science to Sharp Kabushiki Kaisha); and

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MAY 24 2006

OFFICE OF PETITIONS

Appendix (4): e-mail copy dated June 22, 2005, requesting again for signing on the patent documents(sent from Sharp Kabushiki Kaisha to Kitasato Research Center of Environmental Science and return mail thereto on the same date from Kitasato Research Center of Environmental Science).

This // day of *May*, 2006

Nobuo Shimizu

Signed by Nobuo Shimizu

CERTIFICATE

I, Nobuo Shimizu, Manager of Appliance Systems Group/Appliance Systems Product development labs. of Sharp Kabushiki Kaisha, hereby certify that to the best of my knowledge and belief the attached translation is a true translation, made by me and for which I accept responsibility, of a letter sent on September 6, 2004 from me to General Manager Mr. M. Koike of (Judicial Foundation) Kitasato Research Center of Environmental Science.

This 11 day of May, 2006

Nobuo Shimizu

Nobuo Shimizu

September 6 Heisei Era 16 (2004)

Attn.: (Judicial Foundation) Kitasato Research Center of Environmental Science
General Manager: Mitsuru Koike Esq.

Sharp Kabushiki Kaisha
Appliance systems group
Appliance Systems Product Development Lbs.
Manager: Nobuo Shimizu (Seal)
(Person in Charge: Morikawa)

Re: Title of Invention: METHOD FOR EVALUATING ELIMINATION OF
MICROORGANISMS AND APPARATUS FOR EVALUATING ELIMINATION
OF MICROORGANISMS"

Request for the inventor's signatures on Power of Attorney and Assignment

First, we would like to express our thanks for your loyal patronage.

Enclosed are Assignment forms for patent applications in Canada and Egypt. Also enclosed are a power of attorney form and Assignment form for US patent application procedures.

Please obtain "the signature of the inventor Mr. Aoki" on the enclosed documents.

We will appreciate it if you would forward us the completed documents by September 25.

We are looking forward to hearing from you soon.

Enclosed: An Assignment form for Canada

An Assignment form for Egypt

A power of attorney form and an Assignment form for USA

平成 16 年 9 月 6 日

財団法人 北里環境科学センター

本部長 小池 満 殿

シャープ株式会社

電化システム事業本部

電化商品開発センター

特許開発室

室長 清水 伸夫

(担当 守川)



発明の名称「微生物の除去方法および微生物除去評価装置」

における委任状、譲渡証の発明者署名のお願い

時下、ますますご清栄のこととお喜び申し上げます。平素は格別のご高配を賜り、厚く御礼申し上げます。

さて、今般、標記の外国出願の国内段階移行手続きを行いますカナダ、エジプトの譲渡証、アメリカの委任状、譲渡証の書類を送付致します。

同封の書類に『発明者：青木正人』殿のご署名をお願い申し上げます。尚、『Witness』の欄は弊社にて署名を致します。

誠に勝手ですが、9月25日までに、署名された書類を返却頂ければ幸いと存じます。

以上、宜しくお願い申し上げます。

添付書類

- ・カナダの譲渡証・・・1通
- ・エジプトの譲渡証・・・1通
- ・アメリカの委任状、譲渡証・・・各1通

CERTIFICATE

I, Nobuo Shimizu, Manager of Appliance Systems group/Appliance Systems Product development labs. of Sharp Kabushiki Kaisha, hereby certify that to the best of my knowledge and belief that the attached translation is a true translation, made by me and for which I accept responsibility, of an e-mail sent on September 9, 2004 from Mr. M. Morikawa of Sharp Kabushiki Kaisha to General Manager Mr. M. Koike of (Judicial Foundation) Kitasato Research Center of Environmental Science.

This 11 day of May, 2006

Nobuo Shimizu

Nobuo Shimizu

Re: Mr. Aoki's signature on documents with respect to "Title of Invention: METHOD FOR EVALUATING ELIMINATION OF MICROORGANISMS AND APPARATUS FOR EVALUATING ELIMINATION OF MICROORGANISMS"

Sender: Mamoru Morikawa

From: morikawa.mamoru@sharp.co.jp

Date: Thu, 09 Sep 2004 10:40:18

To: koike@kitasato-e.or.jp

I, Mr. Mamoru Morikawa of Appliance Systems Group/Appliance Systems Product Development Labs. of Sharp Kabushiki Kaisha, would like to inform you as follows.

Attn.: (Judicial Foundation) Kitasato Research Center of Environmental Science
General Manager: Mitsuru Koike Esq.

In connection with our recent request for Mr. Aoki's signatures on documents with respect to "Title of Invention: METHOD FOR EVALUATING ELIMINATION OF MICROORGANISMS AND APPARATUS FOR EVALUATING ELIMINATION OF MICROORGANISMS", we received your telephone call informing us that it is impossible for Mr. Aoki to sign the documents due to his illness. In view of this, we discussed with a Patent Attorney Office, who acts on our behalf, how to deal with this matter. According to the Patent Attorney Office's information, filing patent applications lacking an inventor's signature in Canada, Egypt and USA requires submitting, e.g. a medical certificate (original).

Under the circumstances, it will be highly appreciated if you would obtain and send me three medical certificates (original) in total.

In this respect, such a medical certificate, different from a usually issued medical certificate, should explicitly identify the medical condition preventing the inventor from executing a required document, so that when you contact a pertinent medical institution in order to request for issuing such a medical certificate, we hope you will inform the hospital to that effect.

Lastly, please debit us the disbursements for arranging the medical certificates.

題名 『発明の名称:微生物の除去方法及び微生物除去評価装置』の青木氏ご署名について
差出人 守川 守

From: morikawa.mamoru@sharp.co.jp (守川 守)
Date: Thu, 09 Sep 2004 10:40:18 +0900
To: koike@kitasato-e.or.jp

シャープ(電化)特許開発室@守川です。

(財)北里環境科学センター
本部長
小池 満 殿

先般お願い致し、昨日、お電話頂きました『発明の名称:微生物の除、ご本人がご病気で署名が困難とのことですので、対応方法を特許事務所に問い合わせた。

予定しているカナダ、エジプト、アメリカへの出願にあたり、「譲渡証」、「委任状」への発明者署名に関しては、それぞれの国に「診断書(原本)1通」を提出する必要があるとのこと。

つきましては、お手数ですが、トータル3通の「診断書(原本)」をご準備頂き度く、宜しくお願い申し上げます。

尚、本件の場合は通常の「診断書」ではなく、『本人が署名できない理由の記載』があることを求められていますので、恐縮ですが病院にはその旨お話をに入れて頂ければ幸いです。

また、「診断書」発行に要する費用は弊社にて負担致しますので、領収書もお送り頂きますよう、加えてお願い申し上げます。


以 上

守川 守 morikawa.mamoru@sharp.co.jp

CERTIFICATE

I, Nobuo Shimizu, Manager of Appliance Systems Group/Appliance Systems Product Development labs. of Sharp Kabushiki Kaisha, hereby certify that to the best of my knowledge and belief the attached translation is a true translation, made by me and for which I accept responsibility, of a letter sent on September 10, 2004 from General Manager Mr. M. Koike of (Judicial Foundation) Kitasato Research Center of Environmental Science to Mr. M. Morikawa of Sharp Kabushiki Kaisha.

This // day of May, 2006



Nobuo Shimizu

September 10 Heisei Era 16 (2004)

Sharp Kabushiki Kaisha
Appliance systems group
Appliance Systems Product Development Lbs.
Mamoru Morikawa Esq.

(Judicial Foundation) Kitasato Research
Center of Environmental Science
General Manager: Mitsuru Koike (Seal)

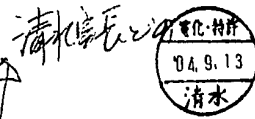
Greetings. (As informed on the telephone today) we cannot provide you with "the medical certificates" by the requested date under the circumstances. We apologize for not complying with your requests.

We are returning herewith the documents mentioned below.

Enclosed: An Assignment form for Canada
An Assignment form for Egypt
A power of attorney form and an Assignment form for USA

平成16年9月10日

シャープ株式会社
電化システム事業本部
電化商品開発センター
特許開発室
守川 守 様



(財) 北里環境科学センター

事業部 小池



前略、毎度お世話になっております。

本日、ご連絡致しましたとおり、現状では「診断書」を御社ご希望の日にお渡しできません。ご容赦のほどよろしくお願い申し上げます。

つきましては、ご指示のとおり下記“書類”をお返し致します。

ご査収ください。

草々

記

送付書類

- | | |
|-----------------|-----|
| 1. カナダの譲渡書 | 1通 |
| 2. エジプトの譲渡書 | 1通 |
| 3. アメリカの委任状、譲渡書 | 各1通 |

CERTIFICATE

I, Nobuo Shimizu, Manager of Appliance Systems group/Appliance Systems Product development labs. of Sharp Kabushiki Kaisha, hereby certify that to the best of my knowledge and belief the attached translation is a true translation, made by me and for which I accept responsibility, of an e-mail sent on June 22, 2005 from Mr. M. Morikawa of Sharp Kabushiki Kaisha to General Manager Mr. M. Koike of (Judicial Foundation) Kitasato Research Center of Environmental Science and a reply thereto from Mr. M. Koike on the same date.

This 11 day of May, 2006



Nobuo Shimizu

Re: Mr. Aoki's signature on documents with respect to "Title of Invention: METHOD FOR EVALUATING ELIMINATION OF MICROORGANISMS AND APPARATUS FOR EVALUATING ELIMINATION OF MICROORGANISMS"

Sender: Mitsuru Koike

From: "Mitsuru Koike" koike@kitasato-e.or.jp

To: "Morikawa" "Mamoru" morikawa.mamoru@sharp.co.jp

Date: Wed, 22 Jun 2005 14:53:38 +0900

Sharp Kabushiki Kaisha

Appliance Systems Group/Appliance Systems Product Development Labs.

Mamoru Morikawa Esq.

We apologize for my long silence and appreciate your giving consideration to our staff member Mr. Masato Aoki.

We would like to inform you frankly in regards to obtaining Mr. Aoki's signature on patent filing documents as follows.

We are of the opinion that Mr. Aoki's ability to make decisions is not sufficient. Thus, it would be impossible for Mr. Aoki to sign his name on patent filing documents.

On the other hand, the required medical certificate cannot be obtained without consent of Mr. Aoki's wife. Furthermore, from the viewpoint of the Private Information Protect Law, the pertinent medical institution would not accept to issue such a medical certificate easily.

For another purpose, we are now requesting, with a power of attorney executed by the relatives of Mr. Aoki, the pertinent medical institution to issue a medical certificate. There seems to be a possibility that the possible medical certificate may refer to the reason preventing Mr. Aoki from executing required documents. But, it will take much time before that occurs.

In addition, considering further responses with Mr. Aoki and/or his relatives, we are studying the possibilities of using such as the law "Adult age guardian system" that protects a person whose ability to make decisions is not sufficient. Under the

circumstances, however, it seems difficult for us to obtain the required medical certificate "immediately".

We appreciate your patience and understanding.

By the way, as for the present invention, our understanding is that the inventors (your staff and our staff/Mr. Aoki) have already assigned their rights to apply for to the business proprietor Sharp Kabushiki Kaisha. In such a situation, we would like to know the reason why Mr. Aoki's signature is required for patent application documents

Pardon the brevity of this note.

Kitasato Research Center of Environmental Science
Mitsuru Koike

-----Original Message-----

From: "Morikawa" "Mamoru" morikawa.mamoru@sharp.co.jp

To: <koike@kitasato-e.or.jp>

Cc: <shimizu.nobuo@sharp.co.jp>

Sent: Wednesday, June 22, 2005 11:15 AM

Subject: Mr. Aoki's signature on documents with respect to "Title of Invention: METHOD FOR EVALUATING ELIMINATION OF MICROORGANISMS AND APPARATUS FOR EVALUATING ELIMINATION OF MICROORGANISMS"

Greetings. I, Mr. Mamoru Morikawa of Appliance Systems Group/Appliance Systems Product Development Labs. of Sharp Kabushiki Kaisha, would like to inform you as follows.

C

Attn.: (Judicial Foundation) Kitasato Research Center of Environmental Science
General Manager: Mitsuru Koike Esq.

1. Re: Signature of Mr. Aoki

In September last year, we had requested you to obtain Mr. Aoki's signature on documents such as power of attorney forms and assignment forms with respect to "Title of Invention: METHOD FOR EVALUATING ELIMINATION OF

MICROORGANISMS AND APPARATUS FOR EVALUATING ELIMINATION OF MICROORGANISMS” for proceeding with patent applications in USA and Canada. According to your information stating that it was impossible to obtain Mr. Aoki’s signature on such documents because of his illness, we have decided to await the recovery of Mr. Aoki.

However, we have heard from our Patent Attorney Office that the due for filing required documents is coming soon (USA: June 25; Canada: July 7).

In view of the above, we would like to know the present medical condition of Mr. Aoki. If the condition allows Mr. Aoki to sign the documents, we will soon arrange to forward the required documents to you.

2. Re: Alternate measures

Where it is difficult to obtain Mr. Aoki’s signature, a single medical certificate (original) will suffice for explaining the reason why the required documents lacks Mr. Aoki’s signature. Such medical certificate, however, should explicitly identify the medical condition preventing Mr. Aoki from executing required documents, so that when you contact a pertinent medical institution in order to request for issuing such a medical certificate, we hope you will inform the medical institution to that effect.

In the near future, the same kind of documents should be submitted for proceeding with a patent application in Egypt, so that we would like you to obtain three original medical certificates.

Lastly, please debit us the disbursements for arranging the medical certificates.

Thank you for your time and consideration.

題名 Re:『発明の名称:微生物の除去方法及び微生物除去評価装置』の青木氏ご署名について
差出人 Mitsuru Koike

From: "Mitsuru Koike" <koike@kitasato-e.or.jp>
To: "守川 " "守" <morikawa.mamoru@sharp.co.jp>
Date: Wed, 22 Jun 2005 14:53:38 +0900

シャープ株式会社
特許開発室
守川 守 様

ご無沙汰しております。

弊所職員（青木正人）へのお気遣いありがとうございます。

さて、署名の件ですが、
単刀直入に申し上げます。

判断能力が十分な状態とは言えませんので、
署名は不可能と考えております。

他方、診断書は、青木君の奥様の了解を得ないと入手できません。
更に、個人情報保護法の観点から、
病院も容易に発効してくれません。

現在、別の目的で、御家族から委任状を頂き、
診断書を請求しております。

「本人が署名できない理由」を証明する内容が
記載されているかもしれません。

ただ、時間を要しております。

また、

青木君並びに御家族との今後の対応を考慮し、
成年後見制度などの活用を検討しており、
診断書を「至急」入手するのは、無理と思われます。

現状をお察しの上、寛大なるお取扱をして頂きますよう、
お願い致します。

なお、本件発明に対しては、
発明者（貴社及び弊所職員（青木））が既に権利を
事業者（シャープ㈱）に譲渡したと認識しております。
のような中、署名が必要な理由は、如何なる理由なのでしょう？

取急ぎ、ご連絡致します。

北里環境科学センター 小池満

----- Original Message -----

From: "守川 " "守" <morikawa.mamoru@sharp.co.jp>

To: <koike@kitasato-e.or.jp>

Cc: <shimizu.nobuo@sharp.co.jp>

Sent: Wednesday, June 22, 2005 11:15 AM

Subject: 『発明の名称:微生物の除去方法及び微生物除去評価装置』の青木氏ご署名について

> お世話になります、シャープ（電化研）特許開発室@守川です。

>

> （財）北里環境科学センター

> 本部長

> 小池 満 殿

>

> 前略

>

- > 1. 青木様のご署名について
- > 昨年9月に、『発明の名称：微生物の除去方法及び 微生物除去評価装置』の外
- > 国出願（アメリカ、カナダ）に関する「譲渡証」と「委任状」への青木様ご本人
- > の署名をお願いさせて頂いたところ、ご病気のため困難とのことをお聞きし、ご
- > 回復を待つことに致しました。
- >
- > 特許事務所より、これら書類の最終提出期限（アメリカ 6/25、カナダ 7/7）が
- > 迫っているとの連絡がありました。
- >
- > 青木様のその後の状況は如何でしょうか。
- > ご署名が可能であれば、関係書類を送付させて頂きたいと思います。
- >
- > 2. 代替措置について
- > ご署名が困難な場合は、「診断書（原本）1通」を提出することで対応できま
- > す。但し、診断書には『本人が署名できない理由の記載』が求められていますの
- > で、恐縮ですが病院にはその旨申し入れて頂きたく。
- >
- > 近い将来には、エジプト出願に対する同様の書類を提出することになりますの
- > で、診断書（原本）は、3カ国分として3通お願い致します。
- >
- > 「診断書」発行に要する費用は弊社にて負担致しますので、領収書をお送り頂き
- > ますよう、加えてお願い申し上げます。
- > ご多忙中とは存じますが、宜しくご高配のほどお願い申し上げます。早々
- >
- >
- > ———
- > 守川 守 morikawa.mamoru@sharp.co.jp
- >